

## REMARKS

Applicant respectfully requests reconsideration of the instant application in view of the amendments, herein, and the following remarks:

The following claims are *pending*: 16-34.

The following claims are *independent*: 16 and 26.

The following claims have previously been *cancelled* without prejudice or disclaimer: 1-16.

Please *cancel* the following claims without prejudice or disclaimer: 17.

Please *add* new claims 26-34 and *amend* claim 16; although this claim has been amended herein to provide clarification, correct typographical inaccuracies and/or informalities, and/or to better track practical/commercial implementations/practices, Applicant submits that the originally filed claims are patentable and reserves the right to pursue the originally filed claims (as well as any claims dependent therefrom) at a later time and/or in one or more continuation/divisional application(s). Applicant submits that these new claims and/or claim amendments are supported throughout the originally filed specification and that no new matter has been added by way of these amendments.

In the Office Action dated July 21, 2009, the Examiner indicated that if claim 16 is amended to incorporate the elements of dependent claim 17, the application will be in condition for allowance (Office Action dated July 21, 2009, Page 2, ¶ 2). Accordingly, Applicant amended claim 16 to incorporate the elements of *allowable* dependent claim 17 in the Amendment Response filed on October 21, 2009 to place the application in condition for

allowance. However, the Advisory Action issued on November 12, 2009 indicated that the amendment would not be entered because they raise new issues that would require further consideration and/or search. In response to the Advisory Action, Applicant represents the amendment made in the Amendment/Response filed on October 21, 2009 and additional claims and amendments accompanied by a request for continued examination (RCE). Accordingly, Applicant requests entry of the amendment based on incorporating *allowable* claim 17 into independent claim 16, and reconsideration and allowance of the claims. Applicant submits that the new claims 26-34 are allowable for similar reasons.

### **Claim Rejections - 35 U.S.C. § 112**

The Office Action rejected claim 16 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner alleges that claim 16 "is vague and indefinite as to if the processor is programmed to account for the reduction in earnings." Applicant argues that the claim language clearly states that "a processor coupled to a memory comprising instructions to configure the processor to" execute each element of claim 16. The Examiner further alleges that "it is not clear how the system determines whether to execute the trade without instructions to determine the immunizing instrument... and instructions to determine the qualifying instrument..." Applicant respectfully traverses this rejection.

MPEP § 2173.02 prescribes that:

Definiteness of claim language must be analyzed, not in vacuum,  
but in light of:

(A) The content of the particular application disclosure;

(B) The teachings of the prior art; and  
(C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

Applicant submits that the rejection in the pending Final Office Action does not establish each of these requirements and submits that the pending claims are in fact clear and definite per 35 USC § 112. Applicant respectfully argues that in light of the disclosure in the specification, a person of ordinary skill would not consider "amending claim 16 with the of language of claim 17" necessary. Applicant notes support for the claimed "remedial action" may be found in the originally filed specification, figure and claims. By way of non-limiting example only, Applicant directs the Examiner's attention to at least page 14, lines 23-29.

Though Applicant traverses the Examiner's rejection and reserve the right to argue patentability of the claims in their original form at a later time, Applicant has amended claim 16 to provide further clarification. Accordingly, Applicant requests: withdrawal of this ground of rejection(s), and reconsideration and allowance of the claims.

## **CONCLUSION**

Consequently, the reference(s) cited by this Office Action and/or any previous office action(s) (hereinafter "Office Action(s)") do not result in the claimed invention(s), there was/is no motivation, basis and/or rationale for such a combination of references (i.e., cited references do not teach, read on, suggest, or result in the claimed invention(s)), and the claimed invention(s) are not admitted to be prior art. Also, Applicant does not accept, admit, and/or concede to any Official Notice that has been taken and/or (mis)characterizations of claims made in the Office Action(s). Thus, the Applicant respectfully submits that the

supporting remarks and claimed inventions, claims 16-34, all: overcome all rejections and/or objections as noted in the Office Action(s), are patentable over and discriminated from the cited reference(s), and are in a condition for allowance. Furthermore, Applicant believes that the above remarks, which distinguish the claims over the cited reference(s), pertained only to noted claim element portions. These remarks are believed to be sufficient to overcome the prior art. While many other claim elements and/or bases for rejection were not discussed as they have been rendered moot based on the above amendments and/or remarks, Applicant asserts that all such remaining and not discussed claim elements and/or bases for rejection, all, also are distinguished over the prior art and reserves the opportunity to more particularly traverse, remark and/or distinguish over any such remaining claim elements and/or bases for rejection at a later time, should it become necessary. Further, any remarks that were made in response to any Office Action(s) objection and/or rejection as to any one claim element, and which may have been re-asserted as applying to other Office Action(s) objection and/or rejection as to any other claim element(s), any such re-assertion of remarks is not meant to imply that there is commonality about the structure, functionality, means, operation, and/or scope of any of the claim element(s), and no such commonality is admitted as a consequence of any such re-assertion of remarks. As such, Applicant does not concede that any claim element(s) have been anticipated and/or rendered obvious by any of the cited reference(s) and/or any Official Notice. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection(s) and/or objection(s), and allowance of all claims.

**Authorization**

Applicant hereby authorizes and requests that the Commissioner charge any additional fees that may be required for consideration of this and/or any accompanying and/or necessary papers to Deposit Account No. 03-1240, Order No. 17209-356. In the event that an extension of time is required (or which may be required in addition to that requested in a petition for an extension of time), Applicant requests that the Commissioner grant a petition for an extension of time required to make this response timely, and, Applicant hereby authorizes and requests that the Commissioner charge any fee or credit any overpayment for such an extension of time to Deposit Account No. 03-1240, Order No. 17209-356.

In the event that a telephone conference would facilitate examination of the application in any way, Applicant invites the Examiner to contact the undersigned at the number provided.

Respectfully submitted,  
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